IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

OP.No. 14094 of 1998(S)

AGAINST THE ORDER DATED 22/01/1997 IN RA.290(COCH)/97 IN ITA.563/1992 OF INCOME TAX APPELLATE TRIBUNAL,COCHIN BENCH

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PETITIONER:

THE COMMISSIONER OF INCOMETAX,
TRIVANDRUM.

BY STANDING COUNSEL, GOVT. OF INDIA (TAXES)
SRI.P.K.RAVINDRANATHA MENON (SR.) &
SRI.GEORGE K.GEORGE

RESPONDENT:

M/S.T.M.CONSTRUCTIONS,
GOVINDAVILASAM, NEAR REST HOUSE,
KOTTARAKKARA.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

O.P.No.14094 of 1998-S

Dated, this the 25th day of July, 2007

JUDGMENT

H.L.Dattu, C.J.

The Revenue has filed this petition under Section 256(2) of the Income Tax Act, 1961 ('Act' for short), inter alia, requesting us to direct the Income Tax Appellate Tribunal to state the case and refer the questions of law that would arise in I.T.A.No.563 of 1992 dated 10.9.1997 for the assessment year 1988-89.

(2) The Tribunal has allowed the assessee's appeal. The Revenue had filed an application under Section 256(1) of the Act requesting the Tribunal to state the case and refer the questions of law that would arise in I.T.A.No.563 of 1992 for the assessment year 1988-89. The Tribunal has rejected the application.

(3) We have carefully perused the order passed by the Tribunal and also the questions of law raised by the Revenue for consideration and decision by this Court. In our opinion, the questions of law raised by the Revenue require consideration by this Court. Therefore, a direction requires to be issued to the Tribunal to state the case and refer the questions of law that would arise in I.T.A.No.563 of 1992 for the assessment year 1988-89.

(4) Accordingly, the following:

Order

i) The petition is allowed.

ii) A direction is issued to the Tribunal to state the case and refer the

questions of law that would arise in I.T.A.No.563 of 1992 dated 10,9.1997 for the assessment year 1988-89 for consideration and decision by this Court, as expeditiously as possible.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns